

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

| | | |
|-------------------------|---|---------------------------|
| Khammesherma Smith, |) | Case No. 6:22-cv-2592-RMG |
| |) | |
| Plaintiff, |) | |
| |) | ORDER |
| v. |) | |
| |) | |
| Lt. Simon, Ofc. Isaacs, |) | |
| |) | |
| Defendants. |) | |
| |) | |

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 56) recommending that this action be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (Dkt. No. 40). Plaintiff is an inmate acting *pro se* who brought this action pursuant to 42 U.S.C. § 1983 alleging that Defendants violated his constitutional rights. The Magistrate Judge authorized the issuance of a summons in this action and delivered the summons and complaint to the United States Marshal for service. The Magistrate Judge thereafter was advised that the pleading could not be served because insufficient information was provided to locate the Defendants. The Magistrate Judge alerted Plaintiff on multiple occasions that additional identifying information was needed and that the complaint was subject to dismissal under Rule 4(m) if service could not be accomplished within 90 days. Plaintiff failed to provide additional identifying information to the Magistrate Judge sufficient to effectuate service. This R & R then followed recommending dismissal of this action without prejudice under Rule 4(m). (Dkt. No. 40). Plaintiff has filed no objection to the R & R.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with

making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where the plaintiff fails to file any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted).

After reviewing the full record in this matter, the Court finds the Magistrate Judge ably addressed the issues presented and correctly concluded that the Plaintiff’s action is subject to dismissal without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
United States District Judge

February 24, 2023
Charleston, South Carolina